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EXAMINER

JANVIER, JEAN D

ART UNIT PAPER NUMBER

3622

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/693,472

Applicant(s)

NOVAK-TORRE, JODY L.

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### **Response To Applicant's Arguments**

Applicant's arguments with respect to the claimed invention have been considered but are moot in view of new ground(s) of rejection. In other words, Applicant's arguments are based on the amended claims and are fully addressed in the above Office Action.

### **DETAILED ACTION**

#### **Specification**

The title of the invention is not descriptive so as to help one having ordinary skill in the art understand the nature of the subject matter. A new title is required that is clearly indicative of the invention to which the claims are directed. See 37 CFR 1.72.

#### **Claim Status**

Claims 1-13 and newly added claims 14-26 are currently pending in the Instant Application.

#### **Claim Objections**

Claims 18, 21 and 23 are objected to because of the following informalities-

Regarding claim 18, "The advertising method of claim 4..." should be - -The advertising system of claim 4...---.

Regarding claim 21, "a speaker in communication with a server..." should be - -a speaker in communication with a workstation or terminal or a computer...-- since the

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server is usually in the back room and not accessible to the general public because of security issue.

Regarding claim 23, "The advertising system of claim 1..." should be - -The advertising system of claim 4...--.

Appropriate corrections are required.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 7, 10, 14, 15, 17, 18 and 22-24 are rejected under 35 USC 102(b) as being anticipated by Bennett, US Patent 5,330,261A.

As per claims 1, 4, 7, 10, 14, 15, 17, 18 and 22-24, Bennett discloses a method of, a system and an apparatus for providing additional display and advertising space for products in a retail store. More specifically, the system provides a novel method and apparatus for providing additional retail display and advertising space by means of a display rack, which may be secured to the door

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of a conventional refrigerated storage cooler (col. 1: 6-14). Indeed, Bennett teaches a cooler door display rack for a cooler having a transparent door pivotally mounted thereon and storage racks arranged in the cooler in spaced relation from the door to define a cooling air-flow zone therebetween. The cooler door display rack forms an open top box having a bottom, front, rear and two sides. The display rack is secured to the inside surface of the cooler door such that the front side is located adjacent the transparent door interior face and such that the display rack extends into the cooling air flow zone when the transparent door is closed. The display rack is adapted to receive advertising or promotional messages (hard copy of promotional items such as flyers, pamphlets, etc.) viewable by the consuming public through the cooler doors while shopping at the retail store. An electronic message board (visual display means) may also be secured to the rack for electronic display of (advertising) messages served by a computer (server) (providing in visual proximity to the display rack a visual display for displaying electronic advertising media or electronic messages from an advertiser). See abstract.

Advertisement display means are operatively associated with the **first front wall** for receiving and supporting advertising indicia that will be visible through the transparent door of the cooler (col. 2: 41-44).

**Further, the advertisement display means may be upright second front and second rear walls mounted in horizontally spaced relation from and generally parallel to the first front and the first rear walls respectively of the display rack, thereby defining a message receiving space between the first and second front walls**

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**and another message receiving space between the first and second rear walls.** The second front and second rear walls are constructed of either a generally transparent material or of a material having a substantial opening formed therein such that advertising indicia placed (printed materials or hard copies of promotional items) in the space between the first front wall of the display rack and the second front wall may be seen through the transparent door of the cooler. Similarly, advertising indicia placed in the space between the first rear wall of the display rack and the second rear wall is visible to customers viewing the rear of the rack when the door is open. The advertising indicia may be advertising or promotional message placards adapted to be slidably inserted into the message receiving spaces for viewing by consumers during the course of shopping. **The message placards may be electronic message boards and may be secured to the rack for electronic display of messages transmitted from a computer or server. It should be understood here that the system is operable to display at least one printed message (flyers, pamphlets, business cards, etc.) in the first front and at least one electronic message on a visual display/electronic display in the second front (advertising indicia placed within the first front wall of the display rack and the second front wall....), wherein the printed message and the electronic message (from an advertiser) may be the same or different (col. 2: 45-68; col. 7: 30-67 and col. 8: 11-37).** For, instance, advertising or promotional messages (hard copy/printed promotional items) 70 placed in the front of the display rack are visible to consumers when approaching the cooler to make a purchase. In an alternative embodiment, an electronic message board (visual display proximate or next to the printed promotional or hard-copy items) may be used as a message placard with a (advertising) message electronically

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displayed thereon. Thus, an advertising or promotional message may be very effectively conveyed to the consumer at precisely the point at which he or she is making the purchasing decision and product selection (col. 3: 52-60).

See in general col. 5: 1 to col. 6: 65.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, 14-16, **17-18 and 22-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemon, US Patent 4,674,041.

(Coupons and advertisements are similar in nature (coupon advertisement) or may be used interchangeably since coupons typically include an advertisement for a particular item or service and provide a discount off the regular price of the product/service-Col. 1: 19-22; col. 1: 55-57).

As per claims 1-13, 14-16, **17-18 and 22-26**, Lemon teaches a system with remotely located coupon printing stations capable of limiting the number of coupons printed in a given time period. Each coupon station has a display for indicating the available coupons, selection means to allow the consumer to choose the desired coupon and a coupon printer for printing the selected coupon. The system disables display of a particular coupon when a pre-selected coupon limit has been reached. Indeed, the system enables a manufacturer to control its liability for coupons and to deter

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fraudulent redemption. Here, the manufacturer may prescribe (limit) a particular number of coupons to be redeemed collectively, i.e. throughout all retail stores, and/or at each particular retail store. The present system also greatly reduces the possibility of fraud by enabling coupons to be encoded with store identification numbers, expiration dates, uniform product codes, and other information at the point of distribution or at a retail store or at the time of printing (printing information on a customer's printed coupon).

The present apparatus comprises, among other things, a stand-alone coupon dispensing terminal T (kiosk) is provided at each retail store or retail location. Each stand-alone terminal communicates with a host central processing unit (remote location) located remote from the stores. Coupons are displayed for customer selection at each dispensing terminal on a video menu via a cathode ray tube and touch screen combination in a fashion that enhances customer acceptance by reducing the time necessary to select and obtain coupons (retrieving and displaying coupons available to the customer upon receiving by the remote database from terminal T as entered by the customer via an input device the customer account). Each terminal may be monitored and controlled via the host computer or remote database to obtain data such as the number of coupons issued and the identification of customers using the terminal. **The system enables the manufacturer to limit, using the redemption data collected from participating retailers' POSes, the number of a particular coupon issued from a particular Terminal T related to a retailer's location or throughout the entire system.**

Using the present system, the manufacturer (vendor) is able to control (adjust) or



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to simply terminate in real-time the display of a particular coupon at a retailer's location or throughout the entire retailers' locations upon detecting, using the collected redemption data transmitted from the retailers' to host computer H, that a threshold limit has been reached. In general, each terminal includes a self-contained high speed coupon printer, which prints the product information, date, time of day, uniform product code, expiration date, a store identification number or any other information desired for particular applications on each coupon issued (col. 1: 55 to col. 2: 24; col. 4: 35-64).

Additionally, Host computer H (remote database) monitors the operation of the individual terminals T and provides terminals T with the information necessary to dispense the coupons requested by customers. Host computer H stores the data, which constitute the array of coupons available for selection that will be displayed on each terminal T. Thus, the operator or manufacturer is able to control the display of coupons at each and every remote terminal T (kiosk display) via host computer H. Host computer H also retains other information such as the date and time of day, which are used by the terminals T to achieve the desired results of the present system. **Host computer H also is programmed to interact with terminals T to allow the operator to prescribe per store and collective limits for each coupon (or for the number of redeemed coupons), thereby controlling the manufacturers liability.** More importantly, host computer H or remote database is programmed to receive from the terminals T coupon transaction information including the number and type of coupons dispensed, store identification numbers, and customer account numbers. Host computer H is programmed to use the information to generate the weekly reports 4 and 6 (FIG. 1)

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for the manufacturer and retailer, respectively (col. 4: 35-64).

Preferably, the coupon distribution system, as shown in fig. 1, is illustrated in its role in the over-all coupon reporting and redemption process. The system includes a coupon control system, which interacts with a consumer to selectively dispense coupons as requested. The system also generates reports 4 and 6 regarding coupon distribution for the manufacturers and retailers, respectively. Here, the manufacturer is able to prescribe limits for distribution of particular coupons on a collective and per store basis (fig. 1). The report 4 is provided to the manufacturer on a periodic basis, such as a weekly basis and includes coupon distribution information for each retail outlet. Report 4 may include the number of coupons dispensed, the store identification information, the dates and times of distribution, and customer identification data. This information is valuable to the manufacturer both as an aid in analyzing its marketing techniques and in detecting fraudulent coupon distribution or redemption. The report 6 provided to retailers is essentially like report 4, but includes information only as to the particular retail store(s) involved. Typically, retailers forward the report 6 to a retail chain headquarters 10 or a clearinghouse 12 to provide a collective accounting for the retail chain or region. In either event, the coupon distribution information is presented to a **redemption center 14**, which receives such information from retailers throughout the country and prepares a billing statement and report 16 for each participating manufacturer. The reports 16 and 4 are compared to detect errors or fraudulent claims. For example, if the number of coupons presented for redemption exceeds the number of coupons dispensed as noted in report 4, then the manufacturer may refuse to make payment to the retailers for the excess. Once the system is utilized, such discrepancy

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will be minimized since the manufacturer will be able to pin point and investigate error sources. The manufacturer will make payment to the particular retailers, thereby concluding the periodic, quarterly, monthly or weekly transaction (col. 3: 29 to col. 4: 6).

**Additionally, the video display presented on terminal T (kiosk) is either in a free-standing advertising mode, wherein full screen advertisements (from the advertiser or product manufacturer) for particular products are sequentially displayed or, in the coupon dispensing mode wherein a page formatted, video menu of coupons is displayed for selection by the customer. Terminal T or display kiosk automatically deactivates to the free-standing (advertising) mode once the entire menu of coupons has been displayed and the appropriate time has elapsed.** Interface I also includes a "quit" switch, not associated with a particular Coupon, which permits the customer to abort the normal terminal display sequence before all the coupons have been displayed. This feature frees the terminal T quickly for use by another customer without requiring the display sequence to be completed in each customer transaction, and thereby also prevents subsequent customers from selecting coupons on the previous customer's account number when the previous customer completes his selection before the entire array of coupons is presented. **Upon activation of the quit switch, microprocessor 22 causes terminal T to return to its free-standing mode prior to the completion of the normal display cycle.** It is herein understood that the advertising message is displayed at a specific time or when a customer is not using the terminal T or kiosk to request information or select coupons therefrom and wherein the particular advertising message is run for a given time period

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and the manufacturer or advertiser is charged for displaying the advertising message on the kiosk based on a prior business arrangement between the advertiser or product manufacturer and the retail store owner (scheduling the display of ads on the kiosk and billing or charging an advertiser accordingly- see col. 1: 55-60; col. 5: 8-12; col. 5: 32-44; col. 6: 62 to col. 7: 16; col. 9: 64 to col. 10: 2; col. 10: 19-24; claims 15-19).

(Coupons and advertisements are similar in nature (coupon advertisement) or may be used interchangeably since coupons typically include an advertisement for a particular item or service and provide a discount off the regular price of the product/service-Col. 1: 19-22; col. 1: 55-57).

**In general, each of terminals T/kiosk (FIG. 3) is a stand-alone unit to be placed at a remote location such as in a retail grocery store. Terminals T include a customer interface display I (visual display), a coupon dispensing apparatus D, and an activator A (FIG. 3). Terminals T also include a central processing unit such as a microcomputer 22 and the associated peripheral circuitry illustrated schematically in FIG. 4. A terminal housing 24 is provided to enclose the terminal hardware and also to provide storage space in lower cabinet 26 for conveniently storing extra paper for coupons or other materials (col. 4: 65 to col. 5: 7). Customer interface display I includes a conventional cathode ray tube 28 for displaying the video menu of coupons available for selection as well as other video graphics, such as advertisements in response to signals received from microcomputer 22 coupled to the kiosk/terminal T (col. 5: 8-12).**

Most importantly, host computer H (server) is programmed to receive from the terminals T coupon transaction information including the number and type of coupons dispensed, store identification numbers, and customer account numbers. Host computer H

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is programmed to use the information to generate the weekly reports 4 and 6 (FIG. 1) for the manufacturer and retailer, respectively. Programming of the host computer H, given the operational specifications for the host contained herein and the detailed specification of programming for terminals T (col. Col. 4: 15-65).

Microcomputer 22 will cause a terminal T, within a retail store, to sequentially display in page format an entire menu of coupons available for selection. If after a **prescribed period of time** (scheduling/timing) no selection has been made, microcomputer 22 will cause terminal T to display the next page of coupons (and/or advertisements) and so on until the entire menu has been completed (displaying a sequence of coupons or advertisements according to a display schedule). If no selection has been made throughout the display process after a prescribed time period, microcomputer 22 causes terminal T to deactivate from the coupon dispensing mode and begin displaying full page advertisements in a free-standing mode (when (schedule or time of display) the free standing advertisements should be displayed) until such time as a customer reactivates terminal T via activator A (col. 5: 32-44).

Here, as shown above, the video display presented on terminal T (visual display) is either in a free-standing advertising mode, wherein full screen advertisements for particular products are sequentially displayed (based on a certain timing or default schedule, i.e. every ten seconds) or, in the coupon dispensing mode wherein a page formatted or a video menu of coupons is displayed for selection by the customer (col. 6: 62 to col. 7: 16).

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Furthermore, each of the terminals T communicates with host computer (server) H to receive updated coupon/advertisement information and to transmit coupon transaction data. Microcomputer 22 in terminal T automatically establishes communication with host computer H and transfers coupon transaction data at the completion of every seventh transaction (batching). Each transaction is defined by an activation of terminal T via activator A. The information thus provided to host computer H is utilized to compile coupon distribution reports 4 and 6 (FIG. 1) and to monitor the distribution of coupons on a continuous basis (col. 7: 25-35).

Terminal/kiosk T is available for operating and advertising functions, but it may be commanded by host computer H (server) not to issue coupons (col. 9: 27-30)

The terminals or coupons dispensers or kiosks or terminals T are located within different retail stores such that a product promoted in one store may be different from another promotional product displayed on the store terminal or display kiosk in another store. Further, the displayed coupons correspond to promotional products currently available or displayed on a store shelf (display rack) where the display kiosk is located in visual proximity to the shelf (or display rack) and used to distribute discount coupons and/or promotion information or advertising information related to the promotional items placed on one or more shelves (display racks) within the store.

As seen above, the manufacturer can limit the number of coupons distributed collectively, throughout the system, per retail store/terminal T or per user. Coupons (advertisements) dispensed at a specific terminal/kiosk T associated or installed within a specific retail store can only be redeemed on the manufacturer's products sold at the retail

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store (i.e. the coupons/advertisements are store specific or are geographically targeted or location-oriented). Thus, the displayed advertisements, associated with the coupons and featuring information regarding specific (coupon) products sold or available at the retail store (as described in the latter portions recorded above), are said to be geographically targeted or location-oriented.

As per claims 1, 4, 7, 17 and 18, Lemon does not expressly disclose using a display rack for displaying a plurality of hard copy promotional items including business cards (from a vendor, manufacturer or advertiser), wherein the display rack is located in visual proximity to the visual display (kiosk) displaying an advertisement, from the advertiser/vendor/manufacturer, related to a hard copy promotional item displayed on the display rack (a server storing data related to a hard copy promotional item displayed in the visual display or the visual display featuring or outputting an advertisement, which is the same as one of the hard copy promotional items).

However, it is common practice in the art, and as per the Applicant's own admission as featured on page 1: 19 to page 2: 8, to use display racks at retailers' locations to display business cards, flyers, brochures, pamphlets, etc. (hard copy of promotional items), on behalf of advertisers, local businesses, local plumbers or real-estate agents, wherein the retailers may charge a fee to the advertisers, local businesses, plumbers and real-estate agents for displaying the hard copy promotional items to customers via the display racks. Furthermore, it is customary in the industry for a retailer to display to customers at his location on a bulletin board strategically located therein business cards, flyers, brochures and pamphlets on behalf of local advertisers.

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For instance, Lowe's, a company selling construction materials, will display at its locations, especially in Northern Virginia, on display racks and/or bulletin boards business cards, flyers, pamphlets, brochures and similar hard copy printed materials on behalf of independent contractors, such as local carpenters, painters, plumbers and so on and so forth.

**“Official Notice”**

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above publicly known information (“Official Notice”) into the system of Lemon so as to use at a retailer's location a display rack or a bulleting board to display to customers or shoppers during the course of a shopping trip hard copy of promotional items, such as business cards, brochures, flyers, pamphlets and similar printed materials having imprinted thereon (coupon) advertising information (like product or service information), on behalf of advertisers, local businesses, plumbers, real-estate agents, entrepreneurs, independent contractors, etc., in addition to outputting the same coupon information or product advertising on one or more display kiosks (visual displays) strategically positioned, within the store or retailer's location, next to the display rack or bulletin board such that the physical/hard copy promotional materials, such as flyers, pamphlets, brochures or business cards related to the displayed advertisements or advertising information (product-coupons), placed on the display rack or bulletin board and associated with the displayed coupons (advertisements) can be immediately found on the display rack(s) and/or bulletin board and easily retrieved by a customer or user following the selection of a displayed coupon



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or exposure to an advertising message, thereby providing great product/service visibility and convenience to the customers who, upon entering or leaving the store or facility, are immediately exposed to the product-promotions in the form of displayed advertisements or coupon distribution, redeemable on products sold at the retail store, outputted on one or more kiosk screens (visual displays) and in the form of printed materials or hard copies of the displayed advertisements (coupons) posted on a bulletin board or placed on the display rack located near the one or more display kiosks having displayed thereon similar coupon information or product advertising, wherein the kiosks are securely placed within a frame structure and strategically positioned next to the store/facility main entrance so as to catch the customers' eyes upon entering or leaving the store or facility, while significantly increasing the odds that the customers will be exposed to a particular advertising message since not only the advertising message is displayed on the display kiosk, but also a hard copy of the same advertising message in printed form, serving as a reminder to the customers, can be obtained or picked up by the customers when entering or leaving the store and while increasing the retailer's or store owner's economic bottom who charges to the product manufacturer/advertiser a first fee for displaying the coupon/advertising information on the display kiosk screen installed within the store and a second fee for posting or placing a hard copy of the same advertising information on the display rack or bulletin board.

As per claims 10-13, Lemon does not expressly disclose using another or a second display kiosk or electronic display in visual proximity to the displayed rack (shelf) for

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displaying the advertisements or coupons, in a similar manner and mounting a vertical frame over the display kiosk substantially above the display shelf (rack).

However, it is common practice in the art to place a display kiosk or display terminal within a frame structure in an effort to protect or secure the display terminal. Further, the location of a display rack or shelf with respect to the display kiosk and the number of display kiosks or electronic displays used to display coupon information or product advertising within a retail facility/store vary from one store to another and become a matter of preference. It is also customary for a retail store to use two or more display kiosks or electronic displays/visual displays strategically positioned within the store to display product information or advertising information or to simply allow customers to request information.

“Official Notice”

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above information into the system of Lemon so as to display the coupon information or product advertising on more than one display kiosks or electronic displays securely placed within a frame structure and strategically positioned, within the store, next to a display rack or directly placed underneath the display rack such that physical/hard copy promotional materials, such as flyers, pamphlets, brochures or business cards related to the displayed advertisements (product-coupons), displayed thereon and associated with the displayed coupons (advertisements) can be immediately found on the display rack(s) and easily retrieved by a customer or user following a selection of a displayed coupon or exposure to an advertising message, wherein the advertising message is similar in nature to the

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displayed advertising message (from an advertiser/manufacture), thereby providing great product visibility and convenience to the customers who, upon entering or leaving the store, are immediately exposed to the product-promotions in the form of displayed advertisements or coupon distribution, redeemable on products sold at the retail store, outputted on one or more kiosk screens (visual displays) and in the form of printed materials or hard copies of the displayed advertisements (coupons) posted on a bulletin board or placed on the display rack located right above or near the one or more display kiosks having displayed thereon coupon information or product advertising, wherein the kiosks are securely placed within a frame structure and strategically positioned next to the store main entrance so as to catch the customers' eyes upon entering or leaving the store, while significantly increasing the odds that the customers will be exposed to a particular advertising message since not only the advertising message is displayed on the display kiosk, but also a hard copy of the advertising message in printed form, serving as a reminder, can be obtained or picked up by the customers when entering or leaving the store.

**Claims 1, 4, 7, 17-18, 2-3, 5-6, 8-9, 14-16 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giraud, US Patent USP 5,966,696A.**

As per claims **1, 4, 7, 17-18, 2-3, 5-6, 8-9, 14-16 and 19-24**, Giraud discloses an advertising system adapted to tracking consumer exposure to a number of different advertisements and to expose consumers to several different advertisements (from

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advertisers). The system simultaneously measures the number of consumers viewing different advertisements, while displaying different selected advertisements (media), retrieved from a computer system (server), for displaying thereon and viewing by the consumers. The system includes a visual display for displaying advertisements and other information. The system functions in either one of an idle mode, wherein potential consumers are not within a sensed proximity range, and an active mode, wherein the presence of potential consumers within the proximity range is detected (the system is operable to display advertisements based on a condition or schedule or based on whether or not the system is in idle or active mode). In the idle mode, the system displays programmed non-advertisement information. In the active mode, the visual display displays a programmed sequence of advertisements (based on a default schedule, that is displaying one advertisement from the list or sequence every fifteen seconds until the list reaches the end), that includes full-motion color commercials that may be interspersed with other information. A sound module may be provided for generating an audio portion of the advertisements. The time period (schedule of display) of the active mode is sensed for determining the portions of the programmed sequence of advertisements that were displayed during the active mode, for determining particular advertisements that may have been viewed by the consumers to generate data. The data are retrieved from a host computer for determining what information in the active mode was displayed and the duration that the system was in the active mode for determining consumer presence and what portions of the active mode information may have been viewed by consumers within a display location (see abstract; col. 1: 33 to col. 3: 9; figs 1 and 2).

As per claims 1, 4, 7, 17 and 18, Giraud does not expressly disclose using a

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display rack for displaying a plurality of hard copy promotional items including business cards (from a vendor, manufacturer or advertiser), wherein the display rack is located in visual proximity to the (visual) display (kiosk) displaying in the active mode an advertisement, from the advertiser/vendor/manufacturer, related to a hard copy promotional item displayed on the display rack (a server storing data related to a hard copy promotional item displayed in the visual display or the visual display featuring or outputting an advertisement, which is the same as one of the hard copy promotional items).

However, it is common practice in the art, and as per the Applicant's own admission as featured on page 1: 19 to page 2: 8, to use display racks at retailers' locations to display business cards, flyers, brochures, pamphlets, etc. (hard copy of promotional items), on behalf of advertisers, local businesses, local plumbers or real-estate agents, wherein the retailers may charge a fee to the advertisers, local businesses, plumbers and real-estate agents for displaying the hard copy promotional items to customers via the display racks. Furthermore, it is customary in the industry for a retailer to display to customers at his location on a bulletin board strategically located therein business cards, flyers, brochures and pamphlets on behalf of local advertisers. For instance, Lowe's, a company selling construction materials, will display at its locations, especially in Northern Virginia, on display racks and/or bulletin boards business cards, flyers, pamphlets, brochures and similar hard copy printed materials on behalf of independent contractors, such as local carpenters, painters, plumbers and so on and so forth.

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**“Official Notice”**

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above publicly known information (“Official Notice”) into the system of Giraud so as to use at a retailer’s location (facility) a display rack or a bulleting board to display in the active mode to customers or shoppers during the course of a shopping trip hard copy of promotional items, such as business cards, brochures, flyers, pamphlets and similar printed materials having imprinted thereon advertising information (like product or service information), on behalf of advertisers, local businesses, plumbers, real-estate agents, entrepreneurs, independent contractors, etc., in addition to outputting the same promotional information or product advertising on one or more LCD display kiosks (visual displays) strategically positioned, within the store or retailer’s location or other facilities, next to the display rack or bulletin board such that the physical/hard copy promotional materials, such as flyers, pamphlets, brochures or business cards related to the displayed advertisements or advertising information, placed on the display rack or bulletin board and associated with the displayed advertisements can be immediately found on the display rack(s) and/or bulletin board and easily retrieved by a customer or user following the exposure to an advertising message, thereby providing great product/service visibility and convenience to the customers who, upon entering or leaving the store or facility, are immediately exposed to the product-promotions in the form of displayed advertisements, related to one or more products available or sold at the facility or retail location, outputted on one or more LCD display kiosk screens (visual displays) and in the form of printed

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materials or hard copies of the displayed advertisements posted on a bulletin board or placed on the display rack located near the one or more display kiosks having displayed thereon similar promotional information or product advertising, wherein the kiosks are securely placed within a frame structure and strategically positioned next to the store/facility main entrance so as to catch the customers' eyes upon entering or leaving the store or facility, while significantly increasing the odds that the customers will be exposed to a particular advertising message since not only the advertising message is displayed on the display kiosk, but also a hard copy of the same advertising message in printed form, serving as a reminder to the customers, can be obtained or picked up by the customers when entering or leaving the store/facility and while increasing the retailer's or store owner's economic bottom who charges to the product manufacturer/advertiser a first fee for displaying, when the presence of a user is detected, the advertising information on the display kiosk screen installed within the store/facility and a second fee for posting or placing a hard copy of the same advertising information on the display rack or bulletin board.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2001/0051900 A1 to Fisher et al. discloses a system that relates to an interactive advertising, which permits a vendor to be provided with feedback from interested consumers. A publicly accessible data transfer system is also disclosed which permits members of the public equipped with personal digital assistants (PDA) (45) to

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receive and transmit data via a transponder (9) located on outdoor advertising signs (1) or similar locations. The transponder (9) includes a cache memory (54) and is able to communicate with a server (42) to upload and download data. A system of product data dissemination and a commercial premises data transfer system are also disclosed (See abstract).

US Patent 6, 286, 029 B1 to Delph discloses an intermediate server or kiosk controller that serves as an agent between content servers and kiosk computers. A control program loaded on the intermediate server directs the intermediate server to retrieve content data from various content servers on a network. The particular content to be retrieved is specified in a run list composed of location codes. The intermediate server then automatically transmits the content to the kiosks in the sequential order specified by the run list. The kiosks' screen displays are consistently refreshed based on the transmitted content. In a specific embodiment, a kiosk controller is connected via the Internet to various web servers. The kiosk controller retrieves web pages from the various web servers. The kiosk controller modifies all links contained within the web pages to point to the kiosk computer. The kiosk controller then sends the modified web pages to kiosks running browser programs (See abstract).

USP 5,504,675 to Cragun discloses a sales promotion program for dynamically selecting from a plurality of programs for presentation in a program presentation unit by a neural network that makes its selection based on first detecting if a person is in the area immediately around the program presentation unit, then either selecting a general attract loop sales promotion program with the trained neural network using a set of predetermined system criteria if no person is detected in the immediate area or selecting a



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specific loop sales promotion program if at least one person is detected in the immediate area. The neural network is trained by selecting general attract loop programs that are run and then collecting data indicative of the number of persons responding to the general attract loop and also by selecting specific loop programs that are run if a person is in the immediate area and then collecting data indicative of the responses to the specific loop programs. The collected data thereby represents the success of the various sales programs in attracting and holding the attention of persons. The collected data is provided to the neural network in any one of a plurality of training schemes typical for neural networks, after which the trained neural network is provided with current, real-time selection data such that the trained network can select the most appropriate sales promotion program for running. The network can be retrained at regular intervals or in response to sales data or changes in the collected data.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113.

Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final-703-872-9327

Before Final -703-872-9326

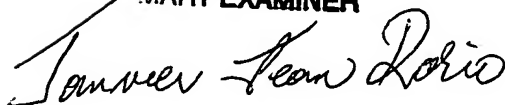
Non-Official gaff- 703-746-7240

Customer Service- 703-572-9325

JDJ

10/16/06

**J. JANVIER  
PATENT EXAMINER**

A handwritten signature in cursive script that reads "Janvier Jean Dorio".